

§ 206.27

24 CFR Ch. II (4-1-00 Edition)

(e) *Limitations.* The Secretary may prescribe a limitation on the frequency of payment changes, a minimum notice period that a mortgagor must provide with a request under paragraph (c) of this section, or other limitations on changes by the mortgagor.

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989, as amended at 60 FR 42760, Aug. 16, 1995; 61 FR 49033, Sept. 17, 1996]

§ 206.27 Mortgage provisions.

(a) *Form.* The mortgage shall be in a form meeting the requirements of the Secretary.

(b) *Provisions.* The mortgage shall explain how payments will be made to the mortgagor, how interest will be charged and when the mortgage will be due and payable. It shall also contain provisions designed to ensure compliance with this part and provisions on the following additional matters:

(1) Payments by the mortgagee under the term or tenure payment options shall be mailed to the mortgagor or electronically transferred to an account of the mortgagor on the first business day of each month beginning with the first month after closing. Payments under the line of credit payment option shall be mailed to the mortgagor or electronically transferred to an account of the mortgagor within five business days after the mortgagee has received a written request for payment by the mortgagor.

(2) The mortgagor shall maintain hazard insurance on the property in an amount acceptable to the Secretary and the mortgagee.

(3) The mortgagor shall not participate in a real estate tax deferral program or permit any liens to be recorded against the property, unless such liens are subordinate to the insured mortgage and any second mortgage held by the Secretary.

(4) A mortgage may be prepaid in full or in part in accordance with § 206.209.

(5) The mortgagor must keep the property in good repair.

(6) The mortgagor must pay taxes, hazard insurance premiums, ground rents and assessments in a timely manner, except to the extent such property charges are paid by the mortgagee in accordance with § 206.205.

(7) The mortgagor shall be charged for the payment of monthly MIP.

(8) The mortgagor shall have no personal liability for payment of the mortgage balance. The mortgagee shall enforce the debt only through sale of the property. The mortgagee shall not be permitted to obtain a deficiency judgment against the mortgagor if the mortgage is foreclosed.

(9) If the mortgage is assigned to the Secretary under § 206.121(b), the mortgagor shall not be liable for any difference between the insurance benefits paid to the mortgagee and the mortgage balance including accrued interest, owed by the mortgagor at the time of the assignment.

(10) If State law limits the first lien status of the mortgage as originally executed and recorded to a maximum amount of debt or a maximum number of years, the mortgagor shall agree to execute any additional documents required by the mortgagee and approved by the Secretary to extend the first lien status to an additional amount of debt and an additional number of years and to cause any other liens to be removed or subordinated.

(c) *Date the mortgage comes due and payable.* (1) The mortgage shall state that the mortgage balance will be due and payable in full if a mortgagor dies and the property is not the principal residence of at least one surviving mortgagor, or a mortgagor conveys all or his or her title in the property and no other mortgagor retains title to the property. For purposes of the preceding sentence, a mortgagor retains title in the property if the mortgagor continues to hold title to any part of the property in fee simple, as a leasehold interest as set forth in § 206.45(a), or as a life estate.

(2) The mortgage shall state that the mortgage balance shall be due and payable in full, upon approval of the Secretary, if any of the following occur:

(i) The property ceases to be the principal residence of a mortgagor for reasons other than death and the property is not the principal residence of at least one other mortgagor;

(ii) For a period of longer than 12 consecutive months, a mortgagor fails to occupy the property because of physical or mental illness and the

property is not the principal residence of at least one other mortgagor; or

(iii) An obligation of the mortgagor under the mortgage is not performed.

(d) *Second mortgage to Secretary.* Unless otherwise provided by the Secretary, a second mortgage to secure any payments by the Secretary as provided in § 206.121(c) must be given to the Secretary before a Mortgage Insurance Certificate is issued for the mortgage.

(Approved by the Office of Management and Budget under control number 2528-0133)

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989, as amended at 60 FR 42760, Aug. 16, 1995; 61 FR 49033, Sept. 17, 1996]

§ 206.29 Initial disbursement of mortgage proceeds.

Mortgage proceeds may not be disbursed at the initial disbursement or after closing (upon expiration of the 3-day rescission period under 12 CFR part 226, if applicable) except:

(a) Disbursements to the mortgagor, a relative or legal representative of the mortgagor, or a trustee for benefit of the mortgagor;

(b) Disbursements for the initial MIP under § 206.105(a);

(c) Fees that the mortgagee is authorized to collect under § 206.31;

(d) Amounts required to discharge any existing liens on the property;

(e) An annuity premium, if the premium was disclosed as part of the total cost of the mortgage under the disclosures required by 12 CFR part 226; and

(f) Funds required to pay contractors who performed repairs as a condition of closing, in accordance with standard FHA requirements for repairs required by appraisers.

[64 FR 2987, Jan. 19, 1999]

§ 206.31 Allowable charges and fees.

(a) *Fees at closing.* The mortgagee may collect, either in cash at the time of closing or through an initial payment under the mortgage, the following charges and fees incurred in connection with the origination of the mortgage loan:

(1) A charge to compensate the mortgagee for expenses incurred in originating and closing the mortgage loan: *Provided*, that the Secretary may es-

tablish limitations on the amount of any such charge which can be included in the mortgage loan.

(2) Reasonable and customary amounts, but not more than the amount actually paid by the mortgagee, for any of the following items:

(i) Recording fees and recording taxes, or other charges incident to the recordation of the insured mortgage;

(ii) Credit report;

(iii) Survey, if required by the mortgagee or the mortgagor;

(iv) Title examination;

(v) Mortgagee's title insurance;

(vi) Fees paid to an appraiser for the initial appraisal of the property; and

(vii) Such other charges as may be authorized by the Secretary.

(b) *Repair administration fee.* If the property requires repairs after closing in order to meet HUD requirements, the mortgagee may collect a fee as compensation for administrative duties relating to repair work pursuant to § 206.47(c), not to exceed the greater of one and one-half percent of the amount advanced for the repairs or fifty dollars. The mortgagee shall collect the repair fee by adding it to the mortgage balance.

[54 FR 24833, June 9, 1989; 54 FR 32060, Aug. 4, 1989]

§ 206.32 No outstanding unpaid obligations.

In order for a mortgage to be eligible under this part, a mortgagor must establish to the satisfaction of the mortgagee that:

(a) After the initial payment of loan proceeds under § 206.25(a), there will be no outstanding or unpaid obligations incurred by the mortgagor in connection with the mortgage transaction, except for repairs to the property required under § 206.47 and mortgage servicing charges permitted under § 206.207(b); and

(b) The initial payment will not be used for any payment to or on behalf of an estate planning service firm.

[64 FR 2988, Jan. 19, 1999]

ELIGIBLE MORTGAGORS

§ 206.33 Age of mortgagor.

The youngest mortgagor shall be 62 years of age or older at the time the